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Democracy in Action

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September 3, 2002

MUR # 5299

Lawrence H. Norton, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

SEP 9 3 23 PM '02

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

RE: FEC Violation Complaint – U.S. Senator Gordon Smith (R-OR)

Dear Mr. Norton:

This complaint asserts that Senator Gordon Smith has violated the Federal Election Campaign Act (the "Act"), 2 U.S.C. §§ 431 et seq., and related regulations of the Federal Election Commission ("FEC or the "Commission"), 11 C.F.R. §§ 100.1 et seq. The record demonstrates that he has broken the law in two ways:

1. Senator Smith violated the Act on October 31, 1995 when he secured a \$2 million uncollateralized line of credit from US Bank to his 1996 U.S. Senate campaign;
2. Senator Smith violated the Act on October 31, 1995 when he accepted the aforementioned loan with an interest rate set to the Prime Rate, which is considerably lower than the rate given to the average borrower;

We urge the Commission to immediately investigate Senator Smith's egregious violations of Federal Election law.

DISCUSSION

1. Uncollateralized Loan

FEC law requires that loans must be made "on a basis which assures repayment." This may be accomplished through collateral, guarantees or endorsements, or pledge of future receipts. See 11 C.F.R. § 100.7.

The \$2 million loan Smith received from US Bank for his 1996 U.S. Senate campaign was made without the required collateral, guarantees or endorsements, or pledge of future receipts to assure repayment. Collateral listed on the Schedule C-1 completed by US Bank is "Historical and anticipated earnings as president of State Frozen Foods and/or sale of personal assets." No additional collateral is listed for

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the loan. "Historical and anticipated earnings as president of Smith Frozen Foods and/or sale of personal assets" do not meet the Act's requirements for a loan. Under the terms of the Act, a lender must specifically identify collateral equal in dollar value to the amount of the loan. The lender is required to "establish a 'perfect security interest' in the collateral." See 11 C.F.R. 100.7(b)(11)(i)(A)(1). Because of the ambiguity of both the dollar value and content of the collateral pledged by Smith to U.S. Bank, it is evident that no security interest was perfected, and no specific dollar value of the assets pledged was ascertained. Therefore, because the loan was not made on a basis which assures repayment, the loan is in violation of the Act.

2. Favorable Rate of Interest

FEC rules prohibit candidates for public office from receiving a more favorable rate of interest on a loan than ordinary customers would receive for the same loan. Specifically, FEC rules state that the loan must bear "the bank's usual and customary interest rate for the category of loan involved." See 11 C.F.R. § 100.7(b)(11).

The interest rate on the \$2 million loan Smith received from US Bank for his 1996 U.S. Senate campaign is listed as the Prime Rate, which is considerably lower than the rate given to the average borrower. This low rate could potentially save Senator Smith tens of thousands of dollars in interest over the life of the loan.

Of additional note, US Bank has a history of providing Sen. Smith with campaign support. In fact, US Bank was the third largest contributor to Smith's campaign between 1995 and 2000, donating \$25,149 to Smith's campaign during that time. US Bank's support of Sen. Smith, in conjunction with the favorable rate of interest he has received on what was effectively an uncollateralized loan, raises serious questions as to the equity of the loan obtained by Sen. Smith.

I will appreciate your looking into these issues, and taking whatever action you deem necessary and appropriate. Thank you for your prompt attention to this correspondence.

Very truly yours,


Jim Edmunson

Chair, Democratic Party of Oregon

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STATE OF OREGON

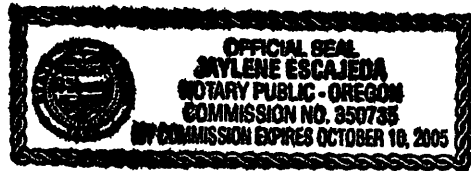
COUNTY OF MULTNOMAH

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ss.

SUBSCRIBED AND SWORN to before me this 3rd day of 9, 2002.
Notary Public

My Commission Expires:

10-10-05

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